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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/240,265	01/29/1999	MARK E. PETERS	CR9-98-095	7166
46320	7590	02/05/2008	EXAMINER	
CAREY, RODRIGUEZ, GREENBERG & PAUL, LLP			CALLAHAN, PAUL E	
STEVEN M. GREENBERG			ART UNIT	PAPER NUMBER
950 PENINSULA CORPORATE CIRCLE			2137	
SUITE 3020				
BOCA RATON, FL 33487				

MAIL DATE	DELIVERY MODE
02/05/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	09/240,265	PETERS, MARK E.	
	Examiner	Art Unit	
	Paul Callahan	2137	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 11-23-07.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) 4-12 and 14-16 is/are allowed.
- 6) Claim(s) 1-3, 13 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) Notice of Informal Patent Application
- 6) Other: _____

DETAILED ACTION

1. Claims 1-12 were pending in the instant application at the time of the issuance of the previous Office Action, mailed August 22, 2007. By the latest response from the applicant, filed November 23, 2007, new claims 13-16 are added. Therefore claims 1-16 are pending and have been examined.

Response to Arguments

2. Applicant's arguments filed November 23, 2007 have been fully considered but they are not fully persuasive. The Applicant argues that the addition of language to claim 1 of a certificate stored on a computer-readable "storage" medium overcomes the rejection of claims 1-3 under 35 USC Sec. 101. However, the Examiner maintains that claims 1-3, and new claim 13, are still directed towards non-statutory subject matter and that the rejection of the claims should be maintained. The certificate set forth in claim 1 represents a mere compilation of data, and not computer program code that causes a change of state in a processor when executed. Therefore the claim is directed towards mere functional descriptive material and is not rendered patentable by its storage on a computer-readable storage medium. The rejection of the claims is set forth in more detail infra.

Claim Rejections - 35 USC § 101

3. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

4. Claims 1-3 and 13 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Changes have been made via the latest amendment to the language of claim 1 by the addition of language directed towards storage of the certificate on a computer readable storage medium. However it is not clear from the language of the claims how the X.509 certificate can be considered as executable code capable of causing a change in a computer apparatus. The X.509 certificate is in fact mere data that another program may act upon when it is read out from the memory medium. Claims 1-3 and 13 claim a mere arrangement of data. As such, embodying the data on a computer-readable storage medium would not make the claims statutory. See MPEP 706.03(a) and, especially, 2106 IV B 1 (b).

Allowable Subject Matter

5. Claims 4-12 and 14-16 are allowed.

Conclusion

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not

mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Paul E. Callahan whose telephone number is (571) 272-3869. The examiner can normally be reached on M-F from 9 to 5.

If attempts to reach the examiner by telephone are unsuccessful, the Examiner's supervisor, Emmanuel Moise, can be reached on (571) 272-3865. The fax phone number for the organization where this application or proceeding is assigned is: (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only.

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For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Paul Callahan

/Paul Callahan/
January 30, 2008

NASSER MOAZZAMI
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100

2/3/08